

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HEATHER RUBY,

Defendant.

8:16CR49

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's "Emergency Motion for Compassionate Release Under 18 USC 3582 (c)(1)(C), ECF No. 48. The Defendant seeks a reduction or modification of her sentence pursuant to 18 U.S.C. § 3582(c)(1)(A) as amended by Section 603 of the First Step Act, Pub. L. No. 115-391, 132 Stat. 5194 (2018).

In Section 603 of the First Step Act, Congress amended 18 U.S.C. § 3582(c)(1)(A) to permit defendants to move a sentencing court for compassionate release "after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier."

The Defendant was sentenced on March 16, 2017, to a term of 84 months incarceration, to be followed by four years of supervised release. Her term of incarceration was well below the guideline range of 210 to 262 months. She states that she has a thyroid condition, excessive weight, and anxiety, and is vulnerable to COVID-19 infection.

The Defendant asserts that she submitted a request for compassionate release to her Warden on April 1, 2020, and she received no response as of May 8, 2020. Yet, she attached to her Motion a communication to the Warden dated April 14, 2020, stating “Please Consider Compassionate Release.” Her earlier communication to the Warden, dated April 1, 2020, makes no mention of compassionate release, but describes a proposed plan, should the Warden approve “Home Confinement.”

The Court will not entertain the Defendant’s request for compassionate release until she has complied with the prerequisites of 18 U.S.C. § 3582(c)(1)(A) as quoted, above. Accordingly,

IT IS ORDERED:

1. The Defendant’s “Emergency Motion for Compassionate Release Under 18 USC 3582 (c)(1)(C), ECF No. 48, is denied without prejudice to reassertion following proper exhaustion of administrative remedies; and
2. The Clerk will mail a copy of this Memorandum and Order to the Defendant at her last known address.

Dated this 18th day of May 2020.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge